

REMARKS

Claims 1-11 are currently pending in the application. Claims 1, 6, and 11 are in independent form.

Claims 1-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,200,334 to Dunn, et al. Additionally, Claims 1-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,637,507 to Wicks. Reconsideration of the rejections is respectfully requested.

In Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989) it was stated: "Every element of the claimed invention must be literally present, arranged as in the claim."

The Office Action has held that the Dunn and Wicks patents disclose a charge-transfer chemical sensor comprising a sol-gel material affixable to a predetermined surface, and indicating means within said sol-gel for detecting and signaling a presence of at least one chemical.

However, when read more closely, the presently amended claims recite limitations not disclosed in the Dunn and Wicks patents. The presently pending independent claims require "a backing that enables affixation to a surface." Support for this amendment can be found in the Paragraph [0032] of the specification ("... the sensor includes a backing that enables the sensor to be affixed to an exterior surface..."). This affixable backing, a novel feature of the present invention, is not disclosed in the Dunn patent, nor the Wicks patent. As such, it is respectfully submitted that the presently amended claims are

patentable over the cited Dunn and Wicks references, and reconsideration of the rejections are respectfully requested.

Additionally, the presently amended claims also require the presence of “charge-transfer indicating means”. Support for this amendment can be found in Paragraph [0028] of the specification (“The gel contains therein an indicator that contains Cu(II), a Lewis acid, or other similar compound (Ni.sup.2+, Co.sup.2+, etc.) via charge-transfer chemistry ...”). Conversely, the cited Dunn and Wicks references do not disclose such a charge-transfer chemical sensor. As such, it is respectfully submitted that this novelty also distinguishes the presently amended claims from the cited references, and, as such, reconsideration of the rejections are respectfully requested.

In light of the above distinctions and novelty present in the present invention beyond that which is described in the prior art, reconsideration of the rejections are respectfully requested.

The remaining dependent claims not specifically discussed herein are ultimately dependant on the independent claims. References as applied against these dependent claims do not make up for the deficiencies of those references as discussed above, and the prior art references do not disclose the characterizing features of the independent claims as discusses above. Hence, it is respectfully submitted that all of the pending claims are patentable over the prior art.

In conclusion, it is respectfully submitted that the presently pending claims are in condition for allowance, which allowance is respectfully requested.

Applicant respectfully requests to be contacted by telephone at (248)539-5050 if any remaining issues exist.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

KOHN & ASSOCIATES, PLLC

/Kenneth I. Kohn/
Kenneth I. Kohn, Reg. No. 30,955
Customer No.: 48924

Dated: March 30, 2010

CERTIFICATE OF ELECTRONIC FILING VIA EFS-WEB

Date of Electronic Filing: March 30, 2010

I hereby certify that this correspondence is being electronically filed with the United States Patent & Trademark Office on the above date.

/Natalie Zemgulis/
Natalie Zemgulis